

Atty. Docket No.: CA1460
PATENT APPLICATION

AMENDMENT UNDER 37 C.F.R. § 1.111
U.S. Application No.: 09/823,470

REMARKS

Claims 1-20 are all the claims pending in the application. The Examiner rejected claims 1-20 under 35 U.S.C. 102(a) as being allegedly anticipated by Sicola et al. (U.S. Patent No. 6,629,264). In response, Applicant amends independent claims 1, 10 and 17 and respectfully submits that all the pending claims are patentable.

Applicant notes that Sicola et al. does not teach or suggest at least two features of the invention recited in the amended independent claims 1, 10 and 17. Specifically, in the claimed invention, at least one of alternative ports which can be used in establishing connection between the primary storage and the secondary storage is selected based on a user-specified policy. This feature is not taught or suggested by Sicola et al. Additionally, Sicola et al. fails to teach or suggest assigning priority to networks.

In more detail, Sicola et al. does not disclose a user-provided policy for selecting network ports. The Examiner appears to argue that the claimed user provided policy used in selecting network ports is disclosed at col. 6 ln. 61-64. of Sicola et al. The Examiner is mistaken. The aforesaid portion of Sicola et al. discusses selection between various synchronization methods of local and remote storage arrays that have nothing to do with selection of network ports. The relevant synchronization methods, which in Sicola et al. are indeed selected based on the user's preferences are described at Sicola et al., col 11 ln 25 to col 12 ln 65. In accordance with the disclosed synchronous method, data is written simultaneously to the cache memory of the local system as well as to the remote system, see col 11 ln 27-31. In the asynchronous mode, the data

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first is written to the local system and only then it is sent to the remote system, see col 12 ln 5-16. As the Examiner would undoubtedly see from the aforesaid portions of Sicola et al., neither of these synchronization methods taught by Sicola et al. have anything to do with the claimed selection of alternative network ports. Therefore, Sicola et al. also fails to teach or suggest the claimed user provided policy for selecting alternative network port(s).

Additionally, claims 1, 10 and 17 recite a feature of the invention, wherein the first network has a higher priority than the second network. The Examiner states that this feature is disclosed at col 17, ln 1-21 of Sicola et al. In response, Applicant respectfully submits that the aforesaid portion of Sicola et al. cited by the Examiner described giving priority to a network node or computer and not to the network itself, as recited in the above claims. Specifically, the cited portion of Sicola et al. described a situation when specific data is available on two different nodes and the system must decide which node to use to access the data. Sicola et al. teaches to give the priority to the home node. As would be undoubtedly appreciated by the Examiner, this teaching has absolutely nothing to do with assigning priority to networks for purposes of selecting which network is used first for data transfer. Accordingly, Applicant respectfully submits that Sicola et al. fails to teach or suggest this additional claim limitation as well.

Applicant respectfully submits that the aforementioned limitations recited in claims 1, 10 and 17 may not be ignored and that all words in those claims must be considered in evaluating patentability over the prior art. *Ochiai et al.*, 37 U.S.P.Q.2d 1127 (Fed. Cir. 1995). For this reason, amended independent claims 1, 10 and 17 are not anticipated by Sicola et al.

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Applicant further respectfully submits that Examiner's rejections of dependent claims 2-9, 11-16 and 18-20 are rendered moot by the present amendment and that these claims are patentable at least due to their dependence on the patentable independent claims 1, 10 or 17.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

SUGHRUE MION, PLLC
Telephone: (650) 625-8100
Facsimile: (650) 625-8110

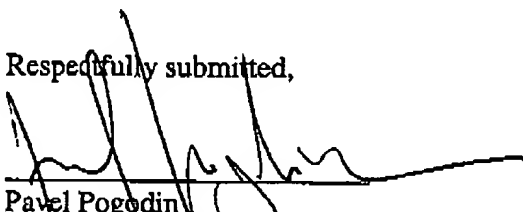
MOUNTAIN VIEW OFFICE

23493

CUSTOMER NUMBER

Date: December 30, 2005

Respectfully submitted,


Pavel Pogodin
Registration No. 48,205

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this AMENDMENT UNDER 37 C.F.R. § 1.111 is being facsimile transmitted to the U.S. Patent and Trademark Office this 30th day of December, 2005.


Mariann Tam